THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.10800 and 18065 of 2002

Dated: 03-08-2006

Between:

Nalkala Krishna and others.

..... PETITIONERS

AND

The Government of Andhra Pradesh,
rep. by Principal Secretary, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.10800 and 18065 of 2002

COMMON ORDER:

The petitioners filed the instant writ petitions seeking writ of Mandamus directing the respondents to consider their case for assignment of land in survey No.135 of Kothapet Village, Uppal Mandal, Ranga Reddy District, in relaxation of the ban orders issued by the Government in G.O.Ms.No.1409 dated 19-08-1978.

The case of the petitioners is that the land admeasuring Acs.14.00 in survey No.135 of said village was occupied by many persons about forty five years ago, who constructed huts and dwelling houses, and they are in possession of the same after developing the necessary infrastructural facilities. The petitioners are also in possession of such plots. Though in 1993, there was a move to evict the petitioners and others from the said land under the Andhra Pradesh Land Encroachment Act, 1905(the Act, for brevity), the third respondent appears to have conducted enquiry and came to the conclusion that the petitioners are entitled to grant of patta. Therefore, the petitioners and others made representations on 21-11-1998 to the Government for grant of pattas/regularization of their occupation. The same was not considered. It is stated that petitioner No.1 in W.P.No.18065 of 2002 and six others filed W.P.No.3131 of 1999 seeking a similar direction, which was disposed of by this Court on 02-04-1999 directing the respondents to consider the representation made by them and pass appropriate orders within a period of four weeks from the date of receipt of said order. In said writ petition, the Mandal Revenue Officer(MRO), Uppal, was arrayed as fourth respondent. Be that as it is, after disposal of said writ petition, MRO issued proceedings No.8/1990/99 dated 29-01-1999 informing the petitioners therein that there is no possibility to consider their request for grant of pattas as the village of Kothapet comes under urban agglomeration and covered by G.O.Ms.No.1409 dated 19-08-1978, by which assignment of Government land is prohibited. Sometime thereafter the petitioners came to know about the orders of the Government in G.O.Rt.No.674 dated 13-08-1996 whereby and whereunder the Government relaxed the ban orders imposed in G.O.Ms.No.1409 dated

19-08-1978 and permitted assignment of land in survey Nos.300/1 of Kongara Kalan Village and the land in survey No.656/A of Adibatla Village, Ibrahimpatnam Mandal, to the eligible beneficiaries. Therefore, they made another representation in May, 2002 to MRO for grant of house site pattas in respect of the land which is in their possession

allegedly for over a period of forty five years. As they did not receive any response, the present writ petitions are filed alleging that there is threat of dispossession from MRO.

The fourth respondent, MRO, filed a counter-affidavit reiterating the substance in the order passed on 29-01-1999 and placing reliance on G.O.Ms.No.1409 dated 19-08-1978 in justification for rejection of the request of the petitioners for grant of pattas. An objection is also sought to be raised contending that as the request of the petitioners was already rejected by order dated 29-01-1999, the same having become final, the petitioners cannot again adjudicate the matter before this Court.

After hearing the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (Assignment), this Court is convinced that no doubt there is ban for assignment of land in urban agglomeration as per G.O.Ms.No.1409 dated 19-08-1978. It also appears to this Court that though there is ban, still the Government permitted assignment of house site pattas to the eligible beneficiaries duly relaxing the conditions imposed in G.O.Ms.No.1409 dated 19-08-1978. One such instance is the issuance of G.O.Rt.No.674 dated 13-08-1996, which reads as under.

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Ranga Reddy District., - Ibrahimpatnam Mandal – Kongra Kalan (v) Assignment of the land in Sy.No.300/1 to an extent of Ac-195 and 25 gts and in Sy.No.656/A of Adibatla village to an extent of Ac-311 and 10 gts –Assignment in favour of eligible beneficiaries- Orders- Issued.

REVENUE (ASSIGNMENT-III) DEPARTMENT

G.O.Rt.No.674 Dated 13-08-1996

Read the following:-

Ref: - 1. From the Collector, R.R. Dist., Lr. bearing No.2754/88, dt.9-9-1992 and dt.8-8-94.

2. From the Commissioner of Land Revenue, Govt. of A.P., Lr. bearing No.2546/94 dt.24-11-1994.

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In the circumstances stated by the Collector, R.R. Dist., in the reference 1st read above, and as recommended by the Commissioner of Land Revenue in the reference 2nd cited. The Government hereby direct that, the government land admeasuring Ac-195 and 25 gts in Sy.No.300/1 of Kongara Kalan Village and the Government land Ac-311 and 10 gts in Sy.No.656/A of Adibatla Village, Ibrahimpatnam Mandal, R.R. Dist., be assigned in favour of eligible beneficiaries in relaxation of ban orders issued vide G.O.Ms.No.1409 Revenue Department, dt.19-8-1978.

The Collector, R.R. Dist., is requested to take necessary further action in the matter.

BY ORDER AND IN THE NAME OF GOVERNOR OF ANDHRA PRADESH.

Sd/-
G. SUDHIR,
Secretary to Government

To
The Collector, R.R. Dist.,
and others.

Therefore, in the considered opinion of this Court, this is a fit case where the Government, first respondent herein, should consider the case of the petitioners especially when they allege that for over a period of forty five years they have been in possession of the land, constructed houses, dug bore wells and obtained other amenities.

There is yet another reason for this Court to come to the conclusion as above. Paras 3 and 4 of G.O.Ms.No.1409 dated 19-08-1978 read as under.

> 3. The Government have examined the matter carefully with a view to releasing for assignment to Weaker Sections as much land as could be done without detriment to public purpose. The Government direct the ban imposed in the G.O.Ms.No.1122, Revenue, dt.29-6-1961 be lifted with immediate effect in respect of 176 villages covered by the ban as shown in Annexure-I to this order subject to the following conditions:-
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> 1. The extents required by the Hyderabad Urban Development Authority as indicated in Annexure-II and those required by various Government Departments, Housing Board and Hyderabad City Municipal Corporation as indicated in Annexure-III to this order falling within these 176 villages shall not be assigned. In Annexure-III while requirements have been indicated, location has not been specified by some of the Departments and the Hyderabad Municipal Corporation. They are requested to indicate the location before the end of the September so that necessary action for reserving them could be taken by the Collector.
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> 2. All blocks of Government lands exceeding 15 acres whether in a single survey number or more shall not be assigned for the present as the A.P. Industrial Infrastructure Corporation may require by them for locating industrial areas. The corporation will examine the suitability of such blocks for industrial purpose in the meantime and report, whereupon orders will be issued for release for assignment of such of these blocks as may not be required for the Corporation.
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> 4. The ban on assignment in the greater Hyderabad city referred to in para 1 above will, however, continue to be in

force in the remaining 190 villages, as detailed in the Annexure IV to this order.

A reading of the above would show that initially the Government imposed ban by their orders in G.O.Ms.No.1122, dt.29-6-1961 directing that no vacant land in the greater Hyderabad city, including Cantonment area within a belt of 10 miles from the Municipal limits should be assigned until Government have assessed the requirements of various departments for building accommodation in the city. Subsequently, it appears that several representations were submitted to the Government to the effect that the ban imposed in G.O.Ms.No.1122, dt.29-6-1961 is causing hardship in the matter of assignment of Government land to the landless poor persons, who were in occupation of the same either on the date of the ban orders or on the date of encroachment. Therefore, the Government took this into consideration and also for the reason that the land catered in bits would not be useful either for setting up of industries or for other nonagricultural purposes, thought it fit to modify said orders with a view to releasing the land for assignment to the weaker sections. Accordingly G.O.Ms.No.1409 dated 19-08-1978 was issued, which on a plain reading would show that unless and until Government vacant land in greater Hyderabad is required by Government Departments, Housing Board, Hyderabad Municipal Corporation or by the Andhra Pradesh Industrial Infrastructure Corporation for locating industrial areas, still the Government land can be assigned to landless poor persons for housing. Presumably for this reason the Government issued G.O.Rt.No.674 dated 13-08-1996. It is the Government who have issued the ban orders and therefore, needless to mention that there is inherent power on the Government to relax the conditions imposed in G.O.Ms.No.1409 dated 19-08-1978. For this reason also this Court is inclined to believe that the Government should consider the request of the petitioners for assignment/regularization of the land in their possession.

Though a copy of the representation made in May, 2002 was marked to the Secretary to Government, Revenue Department as well as other officials, at this point of time, it may not be possible to consider the said representation. Therefore, liberty is given to the petitioners to make fresh representation to the Government, duly marking a copy of this order within a period of two weeks from the date of receipt of a copy of this order. As and when such representation is made, the same may be considered by the Government for relaxation of the ban imposed in G.O.Ms.No.1409 dated 19-08-1978. This exercise shall be completed within a period of three months from the date of making such representation. The petitioners are admittedly in possession of the land, therefore, pending consideration of their representation, if they are

evicted either under the Act or Board Standing Orders, the same would cause hardship to them, therefore, there shall be *status quo* as on today.

With the above observations and directions, the writ petitions are allowed. No costs.

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V.V.S.RAO, J

3rd August, 2006

Note: Issue CC in one week.

B/o

ghn